

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Boris Shulman,

Civil Action No. 3:23-cv-1496-CMC

Plaintiff,

vs.

ORDER

Lemark Financial Services LLC,

Defendant.

This matter is before the court on Plaintiff's Complaint removed to this court on April 12, 2023. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings.

On April 18, 2023, Defendant filed a Motion to Dismiss Plaintiff's Amended Complaint. ECF No. 5. Because Plaintiff is proceeding *pro se*, the Magistrate Judge entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of the motion and the need to file an adequate response. ECF No. 6. Plaintiff filed a motion to transfer the state law claims back to state court (ECF No. 8), and response in opposition to the Motion to Dismiss (ECF No. 11). Defendant filed a reply to the Motion to Dismiss (ECF No. 12), and a response in opposition to the motion to transfer case (ECF No. 9).

On June 21, 2023, the Magistrate Judge issued a Report and Recommendation ("Report") recommending Defendant's Motion to Dismiss be granted, Plaintiff's motion to remand denied as moot, and Plaintiff's claims dismissed with prejudice. ECF No. 13. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious

consequences if they failed to do so. No party has filed objections and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a review of the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts the Report by reference in this Order. Defendant’s Motion to Dismiss (ECF No. 5) is granted, and Plaintiff’s motion to transfer or remand claims (ECF No. 8) is denied as moot. Plaintiff’s FCRA claim is dismissed with prejudice based on *res judicata*, and his fraud claim is dismissed with prejudice for failure to state a claim on which relief can be granted and based on the statute of limitations. The request for injunctive relief is denied.

IT IS SO ORDERED.

s/Cameron McGowan Currie

CAMERON MCGOWAN CURRIE

Senior United States District Judge

Columbia, South Carolina

July 12, 2023